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EXHIBIT**A**

Accusers and the Accused, Crossing Paths at Columbia University

By Ariel Kaminer

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Knit cap pulled down over his ears, shoulders hunched against the biting wind, Paul Nungesser was almost indistinguishable from the dozen or so other students traversing the steps of Columbia University's Low Memorial Library one menacing December day. But a few of those students recognized him anyway, flicking their eyes up for a discreet peek before hurrying on to the last classes of the semester.

He has gotten used to former friends crossing the street to avoid him. He has even gotten used to being denounced as a rapist on fliers and in a rally in the university's quadrangle. Though his name is not widely known beyond the Morningside Heights campus, Mr. Nungesser is one of America's most notorious college students. His reputation precedes him.

His notoriety is the result of a campaign by Emma Sulkowicz, a fellow student who says Mr. Nungesser raped her in her dorm room two years ago. Columbia cleared him of responsibility in that case, as well as in two others that students brought against him. Outraged, Ms. Sulkowicz began carrying a 50-pound mattress wherever she went on campus, to suggest the painful burden she continues to bear. She has vowed to keep at it until he leaves the school.

Her story has been so compelling — and “Mattress Performance (Carry That Weight),” which doubles as her senior thesis for the visual arts department, so affecting — that large numbers of Columbia students have rallied around her. She has been honored with national awards. In October, students at more than 100 colleges carried their own mattresses (or pillows) to call attention to the problem of campus sexual assault.

Through all of it, Mr. Nungesser has hovered in the background like a specter. His name has been plastered on campus bathrooms and published in easily searchable articles. His face is visible online, too, in photos that detractors have posted as warnings to strangers.

Until now he has made no public statement. With graduation only a semester away, however, and his reputation, he says, all but demolished, he has decided to speak.

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He says that he is innocent, and that the same university that found him “not responsible” has now abdicated its own responsibility, letting mob justice overrule its official procedures. The mattress project is not an act of free expression, he adds; it is an act of bullying, a very public, very personal and very painful attack designed to hound him out of Columbia. And it is being conducted with the university’s active support. “There is a member of the faculty that is supervising this,” he said. “This is part of her graduation requirement.”

Columbia’s president, Lee C. Bollinger, while declining to address the matter directly, offered a general statement: “The law and principles of academic freedom allow students to express themselves on issues of public debate; at the same time, our legal and ethical responsibility is to be fair and impartial in protecting the rights and accommodating the concerns of all students in these matters.”

Three Complaints Filed

Ms. Sulkowicz says that in August 2012, during an otherwise consensual encounter, Mr. Nungesser hit her, pinned her down and, despite her protests, raped her. Another woman accused him of following her up the stairs at a party for the literary society they both belonged to and groping her until she pushed him off. A third woman accused him of multiple episodes of “intimate partner violence” — emotional abuse and nonconsensual sex during a monthslong relationship.

Sexual assault cases can sometimes come down to a matter of perspective, but Mr. Nungesser’s accusers say there can be no ambiguity about what he did. “It’s not safe for him to be on this campus,” Ms. Sulkowicz said this month. The women he assaulted “are forever emotionally scarred and fragile because of what he’s done to them. And me.”

Mr. Nungesser is similarly absolute. “People were like, maybe this is a misunderstanding,” he said of Ms. Sulkowicz’s charges. “But the matter of the fact is it’s not a misunderstanding.” He insists they had completely consensual sex. “What was alleged was the most violent rape, and that did not happen.”

As for groping, he says he attended the party but never went upstairs. And intimate partner violence? “Outside of a forced marriage or kidnapping, it just seems very hard to believe that a person would over and over again put themselves in a situation where they could expect this kind of behavior to occur.”

False reports of rape are rare, many experts say, and the federal Education Department is investigating scores of colleges for possibly violating federal rules in handling the complaints that are filed.

Mr. Nungesser said the charges against him, all filed within days of one another, were the result of collusion. The three women said in interviews with The New York Times that they decided to take action when they heard about one another’s experiences.

The groping case was initially decided against him, with a largely symbolic punishment of “disciplinary probation,” but he appealed. By the time the case was heard again his accuser had graduated and was unable, she said, to participate in the process. The decision was overturned. The university dropped the intimate partner violence charge after that accuser, saying she was exhausted by the barrage of questions, stopped answering emails over summer vacation. And in Ms. Sulkowicz’s case, the hearing panel found that there was not enough evidence. Her request for an appeal was denied.

To Mr. Nungesser’s accusers, the refusal to punish him in any way — as well as the myriad procedural errors, delays, contradictions and humiliations, both small and large, to which the women said they were subjected — is proof that the system was biased against them. If three separate complaints against the same man could not persuade the hearing panels, how could anyone believe that justice was served?



Emma Sulkowicz, outraged that Columbia cleared Mr. Nungesser, began carrying a 50-pound mattress around campus to symbolize the painful burden that she continues to bear. Damon Winter/The New York Times

“To me he seems like a predator who attacks women, who does not ask for consent and does not know the line,” said the student who accused Mr. Nungesser of groping her, and who asked not to be publicly identified, as did the third accuser.

To Mr. Nungesser, the facts that campus hearings have a lower burden of proof than criminal trials and that he was not allowed to bring up communications between himself and Ms. Sulkowicz after the night in question were proof that the process was biased against him. If despite those odds, the hearings were resolved in his favor, how could anyone doubt that justice was served?

‘A Debacle’

Speaking carefully, with a slightly formal bearing and an accent so faint that it can be hard to place, Mr. Nungesser, who is from Germany, says he believes sexual assault is an important cause for concern. “My mother raised me as a feminist,” he says, well aware of how those words will strike some people, “and I’m someone who would like to think of myself as being supportive of equal rights for women.”

Most of his Columbia friends have dropped him along the way, either when the charges were first filed or when Ms. Sulkowicz went to the police last year and the Columbia Spectator made the decision to publish his name. (Ms. Sulkowicz did not press criminal charges, a lengthy process that she said would be too draining, but she and several other women filed gender discrimination complaints against Columbia with the Education Department.)

Mr. Nungesser, an architecture major, spent the spring semester abroad, where he started dating a woman he is still involved with. During that time, Ms. Sulkowicz went public with her story; appeared at a news conference with Senator Kirsten E. Gillibrand, Democrat of New York, and on the front page of The Times; and helped inspire a national movement.

He says he approached Columbia’s administration to see if, under the circumstances, it might make more sense for him to spend his senior year in a study abroad program. But the application deadline had already passed, and his request for a waiver was denied.

Back in Morningside Heights, his actions are closely noted. On the National Day of Action, when students took their mattresses out to the quad, a few people also took them to one of Mr. Nungesser’s classes. Someone there took his picture as he entered, he said; another classmate blogged about it. On another occasion, when he went to a bar with a friend, that fact made its way into a television news report on Ms. Sulkowicz’s project.

Mr. Nungesser’s parents work modest jobs, and he says he would never have been able to afford Columbia had he not been awarded scholarships. But people assume he is just another rich foreign student, he says, whose family uses its wealth to buy influence.

Mr. Nungesser has consulted a lawyer, but said he was not currently pursuing any legal action. His parents have written the university many times to denounce a situation that they say “developed from a complete shock to an enduring nightmare for him and for us.”

Ms. Sulkowicz’s parents have also been active in her defense, publishing an open letter to Mr. Bollinger, the president.

In an interview, her mother, Sandra Leong, said the university left Mr. Nungesser in an untenable position. Regarding a hearing process in which so many Columbia students appear to have lost faith, Ms. Leong, who lives in Manhattan said, “I think by sweeping it under the rug they’ve subjected him to a very painful, scarring experience. I don’t see it as Emma’s fault because she just had to do what she had to do but I do see it as the school’s fault.”

“He probably also is holding on for dear life because it’s a free education,” she added. “But ostracism is also horrible. It’s just a debacle.”

Changes in Procedures

Columbia’s procedures for investigating sexual assault allegations have changed considerably since Mr. Nungesser and Ms. Sulkowicz’s case was decided. Accusers and defendants are now each allowed to bring a lawyer, for example; if they do not have one, Columbia is one of the only colleges in the country that will provide one.

But one fundamental goal of the process remains the same, says Suzanne B. Goldberg, a special adviser to the university’s president on sexual assault prevention and response. Unlike criminal trials, she explained, university hearings are designed to be educational experiences.

“I think that any university students who engage with a disciplinary process on these issues learn a lot,” she said.

Mr. Nungesser says he has learned that the university will abandon its own convictions if it is politically expedient.

Ms. Sulkowicz, whose high profile has made her the target of innumerable online attacks, says she has learned that women’s safety is expendable. For her and others, Mr. Nungesser’s continued presence is a daily affront.

Having avoided contact with each other for two years, the two adversaries are scheduled to graduate in the same ceremony in May. Ms. Sulkowicz said she may bring her mattress onstage and drop it right there. Mr. Nungesser is ambivalent about the day, wary of further displays but eager to move on to a place where this episode does not define him. He says he does not know where that will be.

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Columbia sued again over student's mattress protest of alleged rape

Joseph Ax



NEW YORK (Reuters) - A former Columbia University student who had been accused of rape has sued the school for a second time over its decision to allow his accuser to carry a mattress around campus in protest after he had been cleared of the allegations.

The lawsuit filed on Monday by Paul Nungesser came six weeks after U.S. District Judge Gregory Woods in Manhattan threw out an earlier version. The judge said Nungesser failed to show that Columbia discriminated against him based on his gender.

Emma Sulkowicz had accused Nungesser of raping her on campus in August 2012, while Nungesser claimed the encounter was consensual. He was never charged with a crime, and graduated from the Ivy League school in New York last year.

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When the university determined he should not be disciplined, Sulkowicz protested the decision by carrying a mattress everywhere she went as part of her senior thesis, drawing international headlines.

Nungesser's amended lawsuit again asserts that Columbia violated Title IX, which prohibits schools that receive federal funding from engaging in gender discrimination. He said the school discriminated against him by permitting Sulkowicz to protest and by taking other actions that created a "hostile environment."

The new lawsuit contains additional allegations, including claims that the school's current policy regarding gender-based misconduct excludes the possibility of male victims and female perpetrators. Sulkowicz, it said, victimized Nungesser by attempting to get him expelled despite his innocence.

The lawsuit also adds two faculty members as defendants, arguing they supported Sulkowicz's artwork and protests naming Nungesser as a rapist. Sulkowicz is not named as a defendant.

Columbia, its president Lee Bollinger and Sulkowicz's thesis adviser remain defendants in the case.

Court rules for Trump on transgender military limits

A Columbia spokesman declined to comment on Monday.

In a statement, Nungesser's parents said they had heard from friends, relatives and even strangers across the country who said they "wish that Paul eventually finds justice."

A number of male students have filed lawsuits against schools in recent years claiming Title IX violations based on their handling of sexual assault accusations.

Reporting by Joseph Ax; Editing by David Gregorio

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